

**CITY COUNCIL MEETING
May 18, 1994**

COMMENTS BY DAVENPORT: SPANKING OF GRAFFITI VANDALS; DRIVE-BY SHOOTING ON MAIN AND ELM STREETS; REQUEST PROCLAMATIONS FOR FIRE FIGHTERS; TERMS FOR PERSONNEL BOARD OF REVIEW MEMBERS; REQUEST REPORT ON TRIP TO TEXAS; GOOD TIME TO REORGANIZE POLICE DEPARTMENT; ETC.

Council Member Davenport thanked everyone for coming and made the following comments: (1) Stated that there were 43 items of action on the agenda this evening; (2) Urged everyone to be ever mindful of gangs; (3) Read that a Sacramento Council Member is interested in public spanking for graffiti vandals and commented that it might be worth looking into; (4) Commented on the drive-by shooting that occurred on Main and Elm Streets on May 9, 1994. Mr. Davenport had asked the City Manager to take care of cleaning the blood on the sidewalk and was not sure if it had been taken care of; (5) Received letter regarding permits to build fences and would like to see that whenever a permit is taken out for a fence, staff check and make sure it isn't being built over property lines; (6) Asked for a report on the Crime Prevention Fair. Mayor Sieglock responded that Chief Hansen will be making a report under "Comments by the Public" segment of the agenda; (7) Expressed "Happy Birthday" to Personnel Director Joanne Narloch; (8) Requested that proclamations be given to the Fire Department employees who worked on the Malibu fire recently and to those who apprehended an arsonist. Mr. Davenport would like to see this on the agenda; (9) Received letter of complaint regarding the Police Department "forcing" its way into a home and is glad to see this matter is being looked into; (10) Expressed concern regarding the possibility of JCPenney leaving Lodi and wondered what results were made in Texas by Mayor Sieglock and Economic Development Coordinator Keeter; (11) Received letter of thanks for the Public Works Department replacement of sidewalk; (12) Received letter from citizen regarding the Personnel Board of Review questioning why the ordinance says the Board serves three-year terms and the boards and commissions list posted on the bulletin board says they serve four-year terms; and (13) Commented that there may be a Police Captain position coming up soon, which may be an opportunity to reorganize the department. Mr. Davenport feels this would be a good opportunity to again review the possibility of creating a Public Safety Director position to oversee both the Police and Fire Departments, therefore, doing away with one Department Head.

FILE NO. CC-2(f), CC-6, CC-16, CC-34 AND CC-400

CITY OF LODI
MEMORANDUM FROM THE OFFICE OF THE CITY ATTORNEY
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RECEIVED

94 MAY 26 PM 4:07

1. ANTHONY M. PERSONI
CITY CLERK

To: Ray Davenport, Councilmember

From: Bob McNatt, City Attorney

Date: May 24, 1994

Subject: Term Length for Personnel Board of Review Members; Authority of
City to Rent Out Lodi Lake Park


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At the Council meeting of May 18, 1994, you presented two questions which are addressed in this memo. First, you asked about the actual length of terms for members of the City's Personnel Board of Review. It appears there has been an error in some of the material distributed by the City indicating a four year term. The actual length of terms under Ordinance 1477, adopted by the City Council March 7, 1990 is three years. This error apparently occurred when a four year term was proposed in a preliminary draft of this ordinance. That length of term was subsequently shortened to three years by the Council when the ordinance was adopted. We are in the process of correcting this error and thank you for calling it to our attention.

Your second question addressed the authority of the City to grant exclusive use of Lodi Lake Park for the "Arts & Rec at the Lake" event. General authority for the City to acquire, use, control and dispose of real property is found in Government Code §37350. This is a general grant of power and does not attempt to enumerate all of the things a City can do with real property it owns. However, I believe that it is fairly common for cities and counties to enter into such agreements for use of parks.

Research disclosed no statute which prohibits this kind of arrangement. I therefore am of the opinion that the City can legally grant to Lodi Events, Inc. the exclusive right to use Lodi Lake for such events.

Respectfully submitted,


BOB McNATT
City Attorney

BM:pn

cc: City Council
City Clerk

DAVENPRT.1/TXTA.01V

CITY OF LODI PERSONNEL
BOARD OF REVIEW
ADMINISTRATIVE HEARING
PROCEDURES ADOPTED

RESOLUTION NO. 90-34

CC-34 City Attorney McNatt advised the City Council that
CC-300 following a series of meetings the Lodi Personnel Board of
Review had unanimously recommended adopting Administrative
Hearing Procedures which were presented for the City
Council's review.

Personnel Board of Review Chairman Marcelo Lopez
addressed the City Council regarding the matter and
responded to questions.

Following discussion, on motion of Council Member
Pinkerton, Olson second, the City Council adopted
Resolution No. 90-34 entitled, "A Resolution of the Lodi
City Council Approving the City of Lodi Personnel Board of
Review Administrative Hearing Procedures."

AMENDMENTS TO LODI
MUNICIPAL CODE -
ARTICLE II PERSONNEL
BOARD OF REVIEW

ORDINANCE NO. 1477 ADOPTED

CC-6 The City Council was advised that the Lodi Personnel Board
CC-34 of Review had recommended amendments to Article II of the
CC-149 Lodi Municipal Code, entitled, "Personnel Board of
Review". A copy of the proposed amended ordinance was
presented for City Council's review.

Following discussion with questions being directed to the
City Attorney and Personnel Board of Review Chairman Lopez,
the City Council, on motion of Council Member Pinkerton,
Olson second, introduced Ordinance No. 1477, entitled, "An
Ordinance of the Lodi City Council Repealing and Reenacting
Lodi Municipal Code Sections 2.44.070 Through 2.44.110
Relating to the Personnel Board of Review". The motion
carried by unanimous vote of the City Council.

REPORT ON GRAFFITI
IN THE CITY OF LODI

CC-6 City Manager Peterson advised the City Council that at the
CC-16 regular City Council meeting of January 3, 1990, the City
Council heard a presentation by a citizen, Mr. Arthur
Price, regarding the extent of graffiti in various
locations throughout the City.

C O U N C I L C O M M U N I C A T I O N

TO: THE CITY COUNCIL
FROM: THE CITY MANAGER'S OFFICE

COUNCIL MEETING DATE
MARCH 7, 1990

SUBJECT: AMENDMENTS TO LODI MUNICIPAL CODE - ARTICLE II, PERSONNEL BOARD OF REVIEW

PREPARED BY: City Manager

RECOMMENDED ACTION: That the City Council introduce Ordinance No. 1477,
"An Ordinance of the Lodi City Council Repealing an
Reenacting Lodi Municipal Code Sections 2.44.070
Through 2.44.110 Relating to the Personnel Board of
Review."

BACKGROUND INFORMATION: The attached copy of Ordinance No. 1477 (Exhibit A)
comes to the City Council with the board's unanimous
recommendation for favorable action as presented.
Personnel Board of Review Chairman Marcelo Lopez will
be in attendance. The ordinance was drafted by and
will be presented by City Attorney Bob McNatt.

Respectfully submitted,



Thomas A. Peterson
City Manager

TAP:br

Attachment

COUNC769

ORDINANCE NO. 1477

AN ORDINANCE OF THE LODI CITY COUNCIL
REPEALING AND REENACTING LODI MUNICIPAL CODE SECTIONS 2.44.070
THROUGH 2.44.110 RELATING TO THE PERSONNEL BOARD OF REVIEW.

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Chapter 2.44, Article II, Sections 2.44.070 through 2.44.110 relating to the Personnel Board of Review are hereby repealed and reenacted as follows:

2.44.070. Composition of Board - Vacancies.

The Personnel Board of Review created under this Article shall consist of three members to be appointed by the City Council. Vacancies on the Personnel Board, from whatsoever cause, shall be filled by appointment by the City Council. Two of the three members shall constitute a quorum and may conduct business.

2.44.080. Terms.

The Personnel Board appointed and sworn in on January 18, 1990 shall, no later than June 1, 1990, choose by lot one member whose term shall expire on January 17, 1992, and two members whose terms shall expire on January 17, 1994. Thereafter, at the expiration of the terms so determined, successors shall be appointed for terms of four years.

2.44.090. Qualifications of Members.

The members of the Personnel Board shall be qualified electors of the City and shall serve without compensation. No person shall be appointed to the Board who holds any position with the City nor shall any member while a member of the Board be eligible for appointment to any position with the City.

2.44.100. Hearing of Appeals.

A. As provided in this Article, by rule adopted hereunder or by memoranda of understanding between the City and employees' bargaining units, the Board shall hear appeals by any person in the classified service relative to any situation involving the employee's status or conditions of employment, including disciplinary matters.

B. Unless provisions to the contrary contained in any memoranda of understanding or pertinent law require otherwise, the findings and actions of the Board are deemed advisory only to the appointing authority. If memoranda of understanding or law provide differently, then such findings or actions shall be deemed final action by the City, and reviewable under administrative mandamus provisions of State law.

2.44.110. Powers of the Board.

A. In any proceeding or hearing before the Board, it shall have the power to compel the attendance of witnesses and the production of documents or other evidence, to examine witnesses under oath, to regulate conduct of proceedings before the Board and to issue subpoenas in the name of the City. A subpoena issued hereunder shall be served

by the Police Department and failure to appear may subject the subpoenaed party to prosecution or other sanctions in the manner set forth in law for failure to appear before the City Council in response to a subpoena issued by the City Council.

B. Each member of the Board may administer oaths to witnesses. Willful failure or refusal of a witness to take the oath or affirmation may be treated as a contempt.

2.44.120. Procedural Rules.

The Board shall, with the concurrence and approval of the City Council, adopt procedural guidelines for the conduct of hearings by the Board.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this day of

JOHN R. SNIDER
Mayor

Attest:

ALICE M. REIMCHE
City Clerk

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State of California
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No.1477 was introduced at a regular meeting of the City Council of the City of Lodi held March 7, 1990 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 1990 by the following vote:

Ayes: Council Members -
Noes: Council Members -
Absent: Council Members -
Abstain: Council Members -

I further certify that Ordinance No. 1477 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

ALICE M. REIMCHE
City Clerk

Approved as to Form



BOBBY W. McNATT
City Attorney

ORD1477/txta.01v